



H.C.P.No.875 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

H.C.P.No.875 of 2025

Aminabee

... Petitioner

Vs.

1.The Secretary to Government,
Home, Prohibition & Excise Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.District Magistrate and Collector of
Kallakurichi District, Kallakurichi

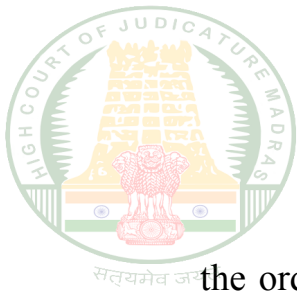
3.The Superintendent of Police
Kallakurichi District, Kallakurichi

4.The Superintendent of Prison
Central Prison, Cuddalore

5.The Inspector of Police
Elavanasoor Kottai Police Station
Kallakurichi District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Habeas Corpus, calling for the records in connection with



H.C.P.No.875 of 2025

the order of detention passed by the second respondent dated 27.03.2025 in D.O.No.C2/12/2025 against the petitioner's son Mohammed Ashik, male aged 24 years, S/o.Sarbudeen, who is confined at Central Prison, Cuddalore and set aside the same and direct the respondents to produce the detenu before the Court and set him at liberty.

For Petitioner : Mr.D.Balaji

For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

M.S.RAMESH, J.

AND

V.LAKSHMINARAYANAN, J.

The petitioner herein, who is the mother of the detenu viz. Mohammed Ashik, aged about 24 years, S/o.Sarbudeen, has come forward with this petition challenging the detention order passed by the second respondent dated 27.03.2025 issued against her son, branding him as "Sexual Offender" under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Tamil Nadu Act 14 of 1982].



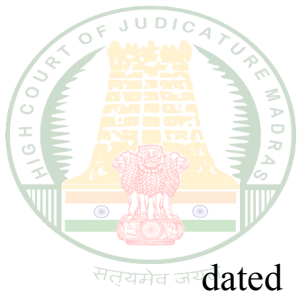
H.C.P.No.875 of 2025

WEB COPY

2. Heard the learned counsel for the petitioner, as well as the learned Additional Public Prosecutor appearing for the respondents.

3. Though several grounds are raised in the petition, the learned counsel for the petitioner focused mainly on the ground that there is an unexplained delay in serving the booklet. According to the learned counsel for the petitioner, though the detention order was passed on 27.03.2025, the booklet was served on the detenu only on 10.04.2025, which is in violation of mandatory provision under Section 8(1) of the Tamil Nadu Act 14 of 1982.

4. In the instant case, though the detenue was detained on 27.03.2025 through the detention order, the booklet was served only on 10.04.2025, which is after two weeks. Under Section 8 (1) of the Tamil Nadu Act 14 of 1982, the Detaining Authority is mandated to communicate the grounds of detention or booklet within a period of five (5) days. The computation of the period of five days was considered by the Coordinate Bench of this Court in the case of '*Vasanthi vs. The Secretary to Government and others*', passed in H.C.P.Nos.1407 and 1410 of 2023,



H.C.P.No.875 of 2025

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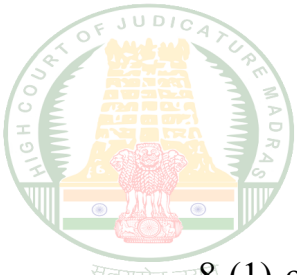
dated 29.08.2023, wherein reliance was placed on the decision of the Hon'ble Supreme Court in the case of '**Enforcement Directorate, Government of India vs. Kapil Wadhawan and another**', reported in '**2023 SCC OnLine SC 972**', and held as follows:

“9.3

.....*It was a reference before the Hon'ble Larger Bench, however, as that is also a matter of curtailment of liberty (as in the case on hand), we draw inspiration from Kapil Wadhawan principle and hold that while computing five days within the meaning of Section 8(1) of Act 14 of 1982, the date on which the preventive detention order is served on the detenu i.e., formal arrest pursuant to the preventive detention order should also be included.*”

5. Thus, when the order of detention is taken into consideration for the purpose of computing five days period, the Detaining Authority has served it on the sixth day, which is opposite to the ratio laid down by the Hon'ble Supreme Court as followed by the Coordinate Bench of this Court in **Vasanthi's case**.

6. In view of the violation of the mandatory provision under Section



H.C.P.No.875 of 2025

8 (1) of the Tamil Nadu Act 14 of 1982, the order of detention cannot be
legally sustained.

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7. Accordingly, the detention order passed by the second respondent on 27.03.2025 in D.O.No.C2/12/2025, is hereby set aside and the Habeas Corpus Petition is allowed. The detenu viz., Mohammed Ashik, aged about 24 years, S/o.Sarbudeen, is directed to be set at liberty forthwith, unless his confinement is required in connection with any other case.

[M.S.R, J.]

[V.L.N, J.]

04.07.2025

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Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

To.

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Page 5 of 6



WEB COPY



H.C.P.No.875 of 2025

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Central Prison, Cuddalore

5.The Inspector of Police
Elavanasoor Kottai Police Station
Kallakurichi District

6.The Public Prosecutor,
High Court of Madras.
Chennai 600 104

H.C.P.No.875 of 2025

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